

# Exhibit A

---

**From:** [David R. Cohen \(David@SpecialMaster.Law\)](mailto:David.R.Cohen@SpecialMaster.Law)  
**To:** [\\*ghobart@cov.com](mailto:*ghobart@cov.com); [Peter H. Weinberger](mailto:Peter.H.Weinberger)  
**Cc:** [MRopiodserve](mailto:MRopiodserve); ["xALLDEFENDANTS-MDL2804-Service@arnoldporter.com"](mailto:MRopiodserve); [Dan\\_Polster@ohnd.uscourts.gov](mailto:Dan_Polster@ohnd.uscourts.gov); [Mary Hughes](mailto:Mary.Hughes); [Scott Loge](mailto:Scott.Loge); [Francis McGovern](mailto:Francis.McGovern); [cathy@cathyvanni.com](mailto:cathy@cathyvanni.com)  
**Subject:** [EXT] AMENDED - Re: Plaintiffs' Expert Reports re Cost of Abatement  
**Date:** Monday, March 25, 2019 2:53:47 PM

---

Sorry, I had a brain cramp. **Expert reports are not to be filed on the docket at this time**, so there is no need for Ps to file a redacted and unredacted version, as I stated in my earlier email. If and when expert reports **are** filed on the docket or discussed in a filed document (e.g. in connection with *Daubert* motions), the redaction process may become necessary. But it is not necessary now.

Thus, plaintiffs should timely **serve** upon defendants their expert reports, and those reports **should** contain the section(s) involving abatement cost (at least as to Summit and Cuyahoga counties, if not a larger geographic scope).

Please note the court is very sensitive to plaintiffs' concern that disclosure of expert opinions regarding abatement cost in the litigation track may affect detrimentally the settlement track; and therefore the court is relying on defendants' assertions that (a) receipt of the abatement cost opinions at this juncture is important, and (b) settlement discussions will not suffer negative impact. To the extent that Ps or Ds can take any action to ensure the latter, they should do so.

Finally, the direction below regarding discussion of bifurcation remains valid.

Again, sorry about the confusion.

-David

---

=====

This email sent from:  
David R. Cohen Co. LPA  
24400 Chagrin Blvd., Suite 300  
Cleveland, OH 44122  
216-831-0001 tel  
866-357-3535 fax  
[www.SpecialMaster.law](http://www.SpecialMaster.law)

---

**From:** David R. Cohen (David@SpecialMaster.Law)  
**Sent:** Monday, March 25, 2019 4:06 PM  
**To:** Hobart, Geoffrey; Peter H. Weinberger  
**Cc:** MRopiodserve; MRopiodserve; 'xALLDEFENDANTS-MDL2804-Service@arnoldporter.com'; Dan\_Polster@ohnd.uscourts.gov; Mary Hughes; Scott Loge; Francis McGovern;

cathy@cathyann.com

**Subject:** Re: Plaintiffs' Expert Reports re Cost of Abatement

Dear Counsel:

I ran this by Judge Polster, who concludes as follows. Plaintiffs should proceed with their expert report addressing abatement cost in the same way they proceeded with their complaints -- that is: (1) file a full version (including the abatement cost section) under seal, and provide it to defendants; and (2) file a redacted version (with the abatement cost section redacted) on the public docket.

This process will allow Ds timely to obtain the information they state they want, pursuant to existing deadlines, while also taking into account Ps' concerns regarding settlement, SEC filings, and so on.

The Court would also like the parties to consider and discuss, with each other and with SM McGovern (who is in charge of shaping the upcoming trial) the implicit question of bifurcation of (a) the yes/no question of public nuisance from (b) the cost of abatement.

Thanks,

-David

=====

This email sent from:

David R. Cohen Co. LPA  
24400 Chagrin Blvd., Suite 300  
Cleveland, OH 44122  
216-831-0001 tel  
866-357-3535 fax  
[www.SpecialMaster.law](http://www.SpecialMaster.law)

---

**From:** Hobart, Geoffrey <[ghobart@cov.com](mailto:ghobart@cov.com)>

**Sent:** Monday, March 25, 2019 1:25 PM

**To:** Peter H. Weinberger; David R. Cohen (David@SpecialMaster.Law)

**Cc:** 'xALLDEFENDANTS-MDL2804-Service@arnoldporter.com'; MROPoidserve

**Subject:** RE: Plaintiffs' Expert Reports re Cost of Abatement

SM Cohen,

On behalf of McKesson, Cardinal and AmerisourceBergen, we write in response to Mr. Weinberger's correspondence of this morning, in which plaintiffs propose to serve expert reports that omit abatement cost calculations. Among the points offered in support for this

request, the plaintiffs suggest for the first time that abatement costs are better addressed in a bifurcated trial.

As we all know, the plaintiffs' expert reports on damages are due today. Due to the last minute nature of the plaintiffs' emergency request (an emergency of their own making), we have not yet had time to confer meaningfully with our clients or with the other defendants. At a minimum, however, our position is that plaintiffs must disclose abatement cost calculations for the CT1 jurisdictions today, consistent with the Court's scheduling order. The county-specific data is critical for our experts to be able to do their analyses and produce their own expert reports. The plaintiffs' new bifurcation suggestion provides no basis for the extension they now seek. If bifurcation is a serious proposal, McKesson, Cardinal and AmerisourceBergen respectfully request that they be afforded an opportunity to consider this issue and present their views to Judge Polster for full consideration.

**Geoffrey Hobart**

Covington & Burling LLP  
One CityCenter, 850 Tenth Street, NW  
Washington, DC 20001-4956  
T +1 202 662 5281 | [ghobart@cov.com](mailto:ghobart@cov.com)  
[www.cov.com](http://www.cov.com)



---

**From:** Peter H. Weinberger <[PWeinberger@spanglaw.com](mailto:PWeinberger@spanglaw.com)>  
**Sent:** Monday, March 25, 2019 10:13 AM  
**To:** David R. Cohen <[David@SpecialMaster.Law](mailto:David@SpecialMaster.Law)>  
**Cc:** 'xALLDEFENDANTS-MDL2804-Service@arnoldporter.com' <[xALLDEFENDANTS-MDL2804-Service@arnoldporter.com](mailto:xALLDEFENDANTS-MDL2804-Service@arnoldporter.com)>; MROPioidserve <[MDL2804discovery@motleyrice.com](mailto:MDL2804discovery@motleyrice.com)>  
**Subject:** Plaintiffs' Expert Reports re Cost of Abatement

**EXTERNAL E-MAIL**

SM Cohen:

Plaintiffs are prepared to submit our expert reports that describe in detail the abatement remedies which the bellwethers are seeking and we are prepared to divulge the costs of that abatement. However, we believe that it is preferable to not disclose the abatement cost calculations at this time because of its potential impact on settlement negotiations, its effect on the defendants' SEC filings, and potentially other factors that would not be in the current best interests of the parties. We believe that the best approach is for the court to proceed to trial

and once abatement is ordered, that the court then proceed to a second phase which would include evidence on the costs of abatement. Because our expert reports are due today, we seek immediate clarification/ruling on this issue.

Pete

Peter H. Weinberger

**Spangenberg Shibley & Liber LLP**  
1001 Lakeside Avenue East, Suite 1700  
Cleveland, Ohio 44114  
216-696-3232 Office  
216-407-5033 Cell  
216-696-3924 Fax

[PWeinberger@spanglaw.com](mailto:PWeinberger@spanglaw.com) | [www.spanglaw.com](http://www.spanglaw.com)

Spangenberg Shibley & Liber



CONFIDENTIALITY NOTICE: The information in this e-mail, including any attachments, is for the sole use of the intended recipient(s), and may contain confidential and legally privileged communications. If you are not the intended recipient, any disclosure, copying, distribution or use of the contents of this communication is strictly prohibited and may be unlawful, and could subject the unlawful user to civil and criminal penalties. Any unintended receipt should be reported to this sender immediately and all copies returned, deleted, and destroyed. TO OUR CLIENTS: Any dissemination of this communication to third-parties may be a waiver of the attorney-client privilege.

---

This communication may contain information that is legally privileged, confidential or exempt from disclosure. If you are not the intended recipient, please note that any dissemination, distribution, or copying of this communication is strictly prohibited. Anyone who receives this message in error should notify the sender immediately by telephone or by return e-mail and delete it from his or her computer.

---

For more information about Arnold & Porter, click here:  
<http://www.arnoldporter.com>

---

This communication may contain information that is legally privileged, confidential or exempt from disclosure. If you are not the intended recipient, please note that any dissemination, distribution, or copying of this communication is strictly prohibited. Anyone who receives this message in error should notify the sender immediately by telephone or by return e-mail and delete it from his or her computer.

---

For more information about Arnold & Porter, click here:  
<http://www.arnoldporter.com>